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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/742,324	12/19/2003	David P. Ress	7000-296	5773
27820 7590 03/25/2008 WITHROW & TERRANOVA, P.L.L.C. 100 REGENCY FOREST DRIVE SUITE 160 CARY, NC 27518				
EXAMINER OVANDO, PABLO R				
ART UNIT		PAPER NUMBER		
2614				
MAIL DATE		DELIVERY MODE		
03/25/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/742,324

Applicant(s)

RESS ET AL.

Examiner

Pablo R. Ovando

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 10-16, 21 and 30-36 is/are pending in the application.
- 4a) Of the above claim(s) 2-9, 17-20, 22-29 and 37-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 21 is/are rejected.
- 7) ☒ Claim(s) 10-16 and 30-36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Amendment filed on 14, January 2008 has been entered. Claims 1 and 21 have been amended.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tassel et al, US Patent Application Publication 2003/0154174 in view of Roberts, United States Patent Application Publication 2003/0152039.

As to **claim 1**, Tassel teaches network charging. Tassel teaches in one embodiment that the terminal 5 is connected to the network management platform via an access router 7, wherein router reads on gateway. Paragraph 21 teaches that a tariff code is generated at the network management platform 40 and sent through the router/gateway to the user terminal 5 by means of a multicast using IP, wherein multicast using IP reads on the media control protocol. Note that paragraph 23 teaches that the media terminal transforms the tariff code into a set of rules.

Even though the tariff is necessarily routed through the router 7, Tassel does not explicitly teach that the gateway receives the complete tariff and forwards the tariff. In the same field of endeavor, Roberts teaches that gateway GGSN receives the tariff information and forwards the information to the user (paragraphs 28-29). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply the teachings of Roberts in Tassel for the purpose of giving the gateway and additional functionality of forwarding the metering information. Additionally, the function of metering is well known in the art and would yield the same results whether it is implemented in the gateway or the user's terminal.

As to **claim 21**, Tassel teaches:

- a) a packet interface to facilitate communication over a packet network (fig. 1, element 7, note the side connected to element 2A)
- b) a telephony line interface to facilitate communications over a telephony line to either a telephony endpoint having a metering function or a metering device associated with the telephony endpoint (fig. 1, element 7, note the side connected to terminal 5)
- c) a control system associated with the packet interface and the telephony line interface (fig. 1, element 40)

Tassel teaches network charging. Tassel teaches in one embodiment that the terminal 5 is connected to the network management platform via an access router 7, wherein router reads on gateway. Tassel in paragraph 21 teaches that a tariff code is generated at the network management platform 40 and sent

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through the router/gateway to the user terminal 5 by means of a multicast using IP, wherein multicast using IP reads on the media control protocol. Note that paragraph 23 teaches that the media terminal transforms the tariff code into a set of rules.

Even though the tariff is necessarily routed through the router 7 to reach the terminal, Tassel does not explicitly teach that the gateway receives the complete tariff and forwards the tariff. In the same field of endeavor, Roberts teaches that gateway GGSN receives the tariff information and forwards the information to the user (paragraphs 28-29). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply the teachings of Roberts in Tassel for the purpose of giving the gateway and additional functionality of processing forwarding the metering information. Additionally, the function of metering is well known in the art and would yield the same results whether it is implemented in the gateway or the user's terminal.

Response to Arguments

Applicant's arguments with respect to claims 1 and 21 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

Claims 10-16 and 30-36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pablo R. Ovando whose telephone number is 571-272-9752. The examiner can normally be reached on M-F 7:30 am to 5:00pm, EST, Alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on 571-272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. R. O./
Examiner, Art Unit 2614
/Pablo R Ovando/
Examiner, Art Unit 2614